

REMARKS

This is a full and timely response to the Office Action of May 18, 2007. By the present Amendment, the claims have been amended to more particularly and distinctly point out the subject matter of the present invention. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

By the present Amendment, claims 1 and 10 have been amended, claims 17-23 have been cancelled without prejudice and new claims 24-28 have been added as replacements for the previously misnumbered claims.

Response to Claim Objections

On page 2 of the Office Action, the Examiner has objected to the claims as being misnumbered, missing claims 17-19 and including two claim 20's. By the present amendment, Applicant has reintroduced both claim 20's and original claims 21 through 23 as new claims 24 through 28, respectively and sequentially. Applicant respectfully requests that non-existent original claims 17-19, both claim 20's and original claims 21-23 be cancelled without prejudice. Applicant submits that no additional claim fees are required to clarify the re-numbering of the previously misnumbered claims. However, to the extent fees are required, the Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of the required additional claim fees. The numbering has been corrected along with appropriate dependencies to match the dependencies of the claims as originally filed. Accordingly, it is submitted that this objection has been overcome.

Response to 35 USC § 112 rejections

On page 2 of the Office Action, the Examiner has rejected the pending claims under 35 USC 112 as being indefinite. Applicant submits that the presently amended claims clarify the term critical date as the settlement date and therefore overcome these rejections.

Response to 35 USC § 102 rejections

On pages 3 through 11 of the Office Action, the Examiner has rejected all of the currently pending claims under 35 USC § 102(b) based on U.S. Patent Application Publication No. 2002/0107703 to Feinberg et al. (hereinafter “Feinberg”). Based on the above amendments and the present remarks, Applicant submits that these rejections have been traversed.

The present invention

As described in the specification for the present application, the present invention provides in part a release tracking system that not only receives, stores and manages information relating to multiple real estate liens, title and financial transactions in multiple jurisdictions, but also tracks note payoffs and lien releases to provide a variety of benefits to numerous parties. Lenders, borrowers, buyers, settlement agents and title insurers alike all benefit as a result. By tracking, reporting and preparing documents to facilitate lien release, the present invention facilitates the removal of liens recorded against a borrower’s property and the recordation of liens against the buyer’s property. For a settlement agent, the present invention assists in post-closing processing of lien releases and recordations so that the settlement agent can safely close his or her files.

It will be appreciated that the present invention does not merely assist in the tracking of notes underlying the liens. As described in the specification of the present application, there are two very different documents associated with the real estate transactions contemplated as part of the present invention. There are liens (also called deeds of trust) which are typically recorded with the court house in the jurisdiction in which the property lies, and there are notes, which are the paper documents underlying the lien that can be bought, sold, transferred, securitized and so forth in accordance with market custom. Banks that underwrite mortgage loans try to reduce their costs of managing the notes, and will typically have an internal or external reconveyance department for this purpose. Servicing agencies can also be employed on behalf of note holders to assist with re-payment and enforcement of note terms. Importantly, these types of services pertaining to the notes correspond to enforcement *against the obligor* (i.e., the borrower of funds) and not the lender. Further, while notes can be tracked to determine who ultimately holds a note at the time a payoff is to occur, the note tracking entities consider their task finished once the current note holder is identified.

By contrast, the present invention as claimed pertains to what happens *after* the note has been satisfied (i.e., the note holder is identified, and the note is paid off by or on behalf of the borrower such that the note holder is no longer owed any monies). It is at this stage that the lien must be released so that the new and proper title can be correctly recorded. In focusing on these aspects, the present invention is not concerned with enforcing against the obligor on behalf of the lender. Rather, the present invention is concerned with enforcing *against the lender on behalf of the obligor*, settlement agencies and title insurers, for example.

Consistent with these aspects of the present invention, claim 1 has been amended to recite that the method claimed therein for ordering the tracking of a lien release comprises providing, by an input device, transaction information associated with at least one lien including at least a settlement date to a computer system for assisting with loan settlements; requesting, by the input device, tracking of a release of the lien to determine whether the lien has been released according to a trigger date determined based on the settlement date; determining that the lien has not been released and is due for release; and sending a signal to the input device indicating that the lien has not been released and is due for release.

Support for the claim amendments shown is found, for example, on pages 1-2, 7-9, 21-23 and 27-30 of the specification as filed, and associated drawing figures. No new matter is believed to have been added.

The Feinberg reference

The Feinberg reference pertains to a lien information management system directed to the basic components of the lien and release preparation and recordation processes. The Feinberg reference describes a medical lien recordation and post-payment release recordation process (see paragraphs [0011-0016] wherein the lien release is prepared and recorded once the lien holder has been paid [0016]. The Feinberg system does not address the situation in the real estate context where there is a settlement agent without authority to release a lien on behalf of a payoff lender. Accordingly, Feinberg is noticeably void of any discussion of tracking a lien release, determining whether the lien has been released according to a trigger date determined based on a settlement date, determining that the lien has not been released and is due for release and sending

a signal as claimed in amended claim 1. There is simply no discussion, mention or teaching of such actions, and Feinberg obviously did not contemplate such actions because the Feinberg reference is directed to medical liens and to a lesser extent, construction liens.

In order for a reference to qualify as prior art under 35 USC § 102, the reference must teach each element of the claim. See *Manual of Patent Examining Procedure (MPEP) § 2131* and cases cited therein. For at least the above reasons, Applicant respectfully submits that there is nothing in Feinberg that teaches or suggests the invention as presently claimed in independent claim 1. Independent claim 10 has been amended similarly to claim 1. New claims 24 and 27 incorporate the aspects of the present invention whereby lien status information can be provided (claim 24) or determined (claim 27), including the status where a note has been paid but the lien has not been released or is overdue for release (claim 24), and further including providing a status report (claim 24) or notice (claim 27) that the lien has not been released but is due for release. For the reasons as stated above in connection with amended claim 1, Applicant respectfully submits that claims 10, 24 and 27 are also not shown or suggested by Feinberg.

Because Feinberg does not teach each and every element of the invention as claimed in the independent claims as provided with the present response, there can be no rejection based on 35 U.S.C. § 102. Further, because Feinberg does not suggest or provide motivation for the claimed invention, either singly or in combination with any other reference of record, there can be no rejection of these claims under 35 U.S.C. § 103. The prior art must teach or suggest *all* claim elements in order to find anticipation or obviousness, and *all* words in a claim must be considered in judging the patentability of that claim against the prior art (see MPEP §§ 706.02(j))

and 2143.03). Applicant therefore respectfully submits that the invention as presently claimed is not disclosed or suggested by the prior art of record. Applicant further submits that each of the dependent claims is similarly allowable as being dependent from an allowable independent claim.

For the above reasons, Applicant submits that none of the cited references, taken either singly or combined, teaches or suggests the presently claimed invention, and that the rejections in the Office Action of May 18, 2007 have been traversed.

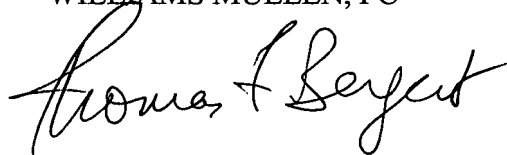
CONCLUSION

Based on the foregoing, Applicant submits that the present application is in position for prompt adjudication and allowance. Applicant believes that all of the claims currently pending in the present application are now in condition for allowance, and an early notice to that effect is earnestly solicited.

Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the present application, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below.

A petition for three-month extension of time is accompanying this response. The Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in payment of the required fees, with the exception of the issue fee.

Respectfully submitted,
WILLIAMS MULLEN, PC

A handwritten signature in black ink, appearing to read "Thomas F. Bergert", written in a cursive style.

Thomas F. Bergert
Counsel for Applicant
Reg. No. 38,076

Filed: November 6, 2007

Thomas F. Bergert, Esq.
Williams Mullen, PC
8270 Greensboro Drive, Suite 700
McLean, Virginia 22102
(703) 760-5200
tbergert@williamsmullen.com

1492940